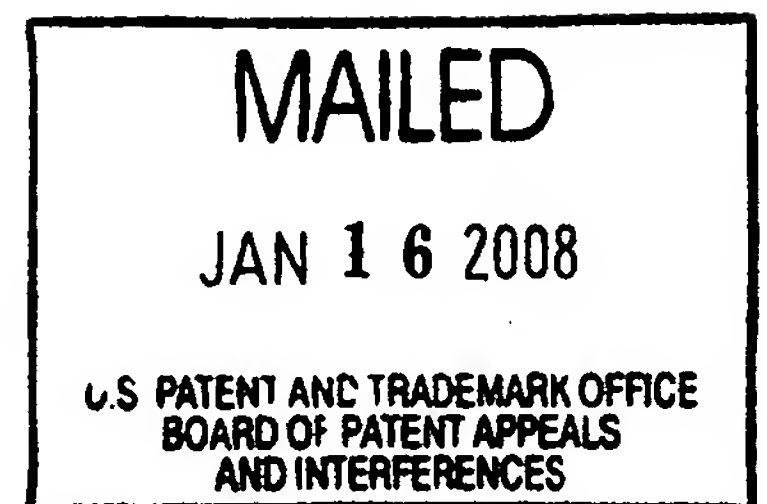


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte PETER F. WORREL

Application 10/708,854



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on December 31, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

A review of the file indicates that on January 12, 2007, Appellant filed an Appeal Brief under the rules set forth in 37 CFR § 41.37(c). However, the Appeal Brief filed on January 12, 2007, does not fully comply with 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(I) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(I) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

...

(viii) ***Claims appendix***. An appendix containing a copy of the claims involved in the appeal.

...

An in-depth review of the Appeal Brief indicates that claim 7 in the Appeal Brief under the heading Claims appendix is not consistent with the claim in the Amendment filed on March 29, 2004.

Section 37 CFR § 41.37(c) further states:

(d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

An entire new brief need not, and should not, be filed. Rather, a paper providing a **clean copy of the claims involved in the appeal will suffice**. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

Application 10/708,854

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) notify Appellant to file an amended Claims Appendix that contains a clean copy of the claims involved in the appeal; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



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PJN/pgc

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